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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,647	12/22/2000	Aman Gupta	GEMS8081.055	4528

27061 7590 03/08/2004

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EXAMINER

MCCLELLAN, JAMES S

ART UNIT PAPER NUMBER

3627

DATE MAILED: 03/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application

09/747,647

Applicant(s)

GUPTA ET AL.

Examiner

James S McClellan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Amendment

1. Applicant's submittal of an amendment was entered on December 18, 2003, wherein:
claims 1-21 are pending and
claims 1 and 4 have been amended.

Numbering of Claims

2. The claims have been renumbered because Applicant skipped claim number 12.
Therefore all claim numbers following claim 11 have been reduced by one. For example, claim 13 is now claim 12.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,809,479 (Martin et al.) in view of U.S. Patent No. 6,322,502 (Schoenberg et al.).

Martin et al. discloses a method of reporting status of work in progress, comprising the steps of periodically querying a database that contains order data (see column 2, lines 30-38); comparing a promise data and a request data (see column 4, lines 54-65).

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Martin fails to disclose setting and displaying alerts when processing of an order is after a predetermined time period.

Schoenberg et al. discloses a database monitoring function that allows a user to be alerted when an order is late (see column 5, lines 39-47)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Martin et al. with status monitoring as taught by Schoenberg et al., because status monitoring reminds the user that a order has not been completed and action needs to be taken to correct the delay.

The Examiner takes Official Notice that proactive and reactive alerting systems are well known in the art and a person of ordinary skill in the art would recognize that alerting systems can be programmed as either proactive or reactive as desired by the user.

Regarding claim 8, Martin et al. discloses modifying the promise date and notifying a customer of the change (see paragraph bridging columns 3 and 4).

Response to Arguments

5. Applicant's arguments filed December 18, 2003 have been fully considered but they are not persuasive.

On page 7, second paragraph, Applicant notes that the specification has been amended to correct a typographical error. The objection of the specification is withdrawn.

On page, 7, third paragraph, Applicant traverses the rejection of claims 1-21 under 35 U.S.C. § 103 of Martin in view of Schoenberg because Applicant traverses the Examiner's use of Official Notice. The Examiner did not intend to rely on Official Notice as part of the rejection as

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clearly indicated in the rejection. The rejection is a 35 U.S.C. § 103 of Martin in view of Schoenberg. The Examiner's statement of Official Notice is merely meant to establish what the Examiner believes to be old and well known in the art to one of ordinary skill in the art at the time the invention was made. All limitations are supported by the combination of Martin in view of Schoenberg. Martin discloses reactive alerting and Schoenberg discloses proactive alerting.

On pages 7-8, Applicant continues to traverse the Examiner's use of Official Notice. As set forth above, the Examiner's use of Official Notice is meant as the grounds of the rejection, but as a general statement that both proactive and reactive alerts are well known (as taught by Martin and Schoenberg). Applicant request that the Examiner cite a reference to support his position. As set forth in the rejection, Martin and Schoenberg are cited for disclosing all claimed elements.

In response to applicant's argument on page 9, first paragraph that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In this case Schoenberg teaches proactive monitoring or "reminders", as well as, tracking orders reactively (see column 5, lines 39-48). The motivation to combine comes directly from Schoenberg, wherein both reactive and proactive alerts are taught. Proactive alerts provide the user with a reminder that action needs to be taken in order to correct the delay.

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On page 9, final paragraph - page 10, first full paragraph, Applicant argues that Martin is directed to reactive alerting. The Examiner agrees. Hence, the Examiner relies on the combination of Martin and Schoenberg to disclose all claimed elements. Schoenberg discloses proactive notification (see column 5, lines 39-48).

On page 10, second full paragraph, Applicant argues that Martin fails to disclose a system that populates a database and periodically query the database as required by claims 9 and 11. Specifically, Applicant states that Martin database is populated by user inputs, not the system. It is noted that Applicant failed to provide support for his statement that Martin manually inputs data into a database. The Examiner disagrees with Applicant's argument. First, even if Martin manually types order and shipping information into an input device (such as a keyboard), the system is going to populate the database with the data, not the user. Martin discloses populating a database with data to include a request data as "calculated" in step 22. Clearly the system is utilized to calculate the request date. Additionally, the ship date is "calculated" in step 26. Therefore, Martin's system is utilized to populate a database.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a)

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will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim McClellan whose telephone number is (703) 305-0212. The examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703) 308-5183.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

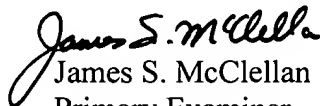
Any response to this action should be mailed to:

Commissioner of Patent and Trademarks
Washington D.C. 20231

or faxed to:

(703) 872/9306 (Official communications) or
(703) 746-3516 (Informal/Draft communications).

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,
Arlington, VA, 7th floor receptionist.


James S. McClellan
Primary Examiner
A.U. 3627

jsm
March 5, 2004